

**Proposed Informal
Redline Strikeout Version
Incorporating Surety for Small Mines and Related Changes
March 17, 2004**

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-1. Minerals Regulatory Program.

R647-1-101. Preamble.

These Rules and all subsequent revisions as approved and promulgated by the Board of Oil, Gas, and Mining (Board) of the State of Utah, are developed pursuant to the requirements of the Utah Mined Land Reclamation Act of 1975, Title 40, Chapter 8 of the Utah Code Annotated as amended (the Act). Section 40-8-2 of the Act states the findings of the Legislature.

In accordance with this legislative direction, these Rules recognize the necessity to balance the reclamation objectives of the Act with the physical, biological and economical constraints which may exist on successful reclamation. The Act and its revisions are hereby expressly incorporated herein by reference and made a part of these Rules.

There is intentional duplication in these rules. For example, the rule on hole plugging requirements is repeated in the section on Exploration, Small Mining Operations, and Large Mining Operations. This repetition is intended to benefit the Operator by putting all the rules relevant to a type of operation in the introductory section and in the section on that type of operation.

R647-1-102. Introduction.

1. Effective Dates, Applicability, Type of Operations Affected:

1.11. Effective November 1, 1988, the following rules apply to all previously exempted mining operations and to mining operations planning to commence, or resume operations within the state of Utah. These rules will not apply to existing mining operations approved prior to the effective date, above of these rules, or to notices of intention or amendments filed prior to these rules. However, these rules will apply to any revisions to an approved notice of intention filed subsequent to thise effective date of these rules.

1.12. Operators should refer to the section of these rules which applies to the type

of mining operation (e.g., exploration, small mining operation, or large mining operation) being conducted or proposed.

1.13. These rules apply to all lands within the state of Utah lawfully subject to its police power, regardless of surface or mineral ownership, and regardless of the type of mining operation conducted.

2. Cooperative Agreements/Memoranda of Understanding:

The Division of Oil, Gas and Mining (Division) will cooperate with other state agencies, local governmental bodies, agencies of the federal government, and private interests in the furtherance of the purposes of the Utah Mined Land Reclamation Act. The Division is authorized to enter into cooperative agreements and develop memoranda of understanding with agencies in furtherance of the purposes of the Act. The objective is to minimize the need for operators to undertake duplicative, overlapping, excessive, or conflicting procedures.

3. Operator Responsibilities, Compliance with other Local, State and Federal Laws:

The approval or acceptance of a complete notice of intention shall not relieve an operator from his responsibility to comply with the applicable statutes, rules, regulations, and ordinances of all local, state and federal agencies with jurisdiction over any aspect of the operator's mining operations, including, but not limited to: Utah State Division of Water Rights, the Utah Department of Business Regulation, the Utah State Industrial Commission, the Utah Department of Environmental Quality, the Utah Division of State History, the Division of Forestry, Fire and State Lands, The School and Institutional Trust Lands Administration, the Utah Division of Wildlife Resources, the U. S. Fish and Wildlife Service, the United States Bureau of Land Management, the United States Forest Service, the United States Environmental Protection Agency, and local county or municipal governments.

4. Division Guidelines, Operator Assistance in Application Preparation:

Each operator who conducts mining operations on any lands within the state of Utah is responsible for compliance with the following rules. The Division shall provide guidelines to aid the operator in complying with the rules.

R647-1-103. General Rules.

The following are general rules for statewide application.

R647-1-104. Violations and Enforcement.

If after notice and hearing, the Board finds that a violation of the Act, these rules, a notice of intention, or a Board or Division order has occurred, the Board may take any enforcement action authorized by law including requiring: compliance, abatement, mitigation, cessation of operations, a civil suit, forfeiture of surety, reclamation, or any other lawful action.

R647-1-105. Forms.

The attached forms are intended for the convenience of the operator and the Division, and may be changed from time to time. The forms are not part of these rules and use of a particular form, though encouraged, is not required, as long as all of the necessary information is provided in a reasonable manner.

R647-1-106. Definitions.

"Act" means the Utah Mined Land Reclamation Act, enacted in 1975, as amended. (Section 40-8-1, et seq., UCA).

"Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of all of such actions. Those matters not governed by Title 63, Chapter 46b, Administrative Procedures Act, of the Utah Code annotated (1953, as amended) shall not be included within this definition.

"Agency" means a board, commission, department, division, officer, council, office, committee, commission, bureau, or other administrative unit of this state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, but does not mean the Legislature, the courts, the governor, any political subdivision of the state, or any administrative unit of a political subdivision of

the state.

"Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.

"Amendment" is an insignificant change in the approved notice of intention.

"Approved Notice of Intention" means a formally filed notice of intention to commence mining operations, including any amendments or revisions thereto that is determined to be complete and contains an approved mining and reclamation plan, which has been approved by the Division. An approved notice of intention for exploration having a disturbed area of five acres or less, or for a small mining operation, must be determined complete, but does not require an approved mining and reclamation plan. is not required for exploration having a disturbed area of five or less surface acres, or for small mining operations.

"Board" means the Utah Board of Oil, Gas and Mining. The Board shall hear all appeals of adjudicative proceedings which commenced before the Division as well as all adjudicative proceedings and other proceedings which commence before the Board. The Board may appoint a Hearing Examiner for its hearings in accordance with the Rules of Practice and Procedure before the Board of Oil, Gas and Mining.

"Deleterious Materials" means earth, waste or introduced materials exposed by mining operations to air, water, weather or microbiological processes, which would likely produce chemical or physical conditions in the soils or water that are detrimental to the biota or hydrologic systems.

"Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated materials, solutions, or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which any useful product may be produced, extracted or obtained, or which is extracted by underground mining methods for underground storage. "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water, geothermal steam, and oil and gas, but includes oil shale and bituminous sands extracted by mining operations.

"Development" means the work performed in relation to a deposit following its discovery, but prior to and in contemplation of production mining operations.

Development includes, but is not limited to, preparing the site for mining operations;

further defining the ore deposit by drilling or other means; conducting pilot plant operations; and constructing roads or ancillary facilities.

"Disturbed Area" means the surface land disturbed by mining operations. The disturbed area for small mining operations shall not exceed five acres. The disturbed area for large mining operations shall not exceed the acreage described in the approved notice of intention.

"Division" means the Utah Division of Oil, Gas and Mining. The Division Director or designee is the Presiding Officer for all informal adjudicative proceedings which commence before the Division in accordance with Rule R647-5.

"Exempt Mining Operations" means those mining operations which were previously exempt from the Act because less than 500 tons of material was mined in a period of twelve consecutive months or less than two acres of land was excavated or used as a disposal site in a period of twelve consecutive months. These exemptions were eliminated by statutory amendments in 1986 and are no longer available.

"Exploration" means surface disturbing activities conducted for the purpose of discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral deposit, and identifying regions or specific areas in which deposits or mineral deposits are most likely to exist. "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling holes; digging pits or cuts; building roads and other access ways.

"Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 2mm and 10mm, which has been deposited by sedimentary processes.

"Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including, but not limited to: (a) on-site private ways, roads, and railroads; (b) land excavations; (c) exploration sites; (d) drill sites or workings; (e) refuse banks or spoil piles; (f) evaporation or settling ponds; (g) stockpiles; (h) leaching dumps; (i) placer areas; (j) tailings ponds or dumps; (k) work, parking, storage, or waste discharge areas, structures, and facilities. Land affected does not include: (x) lands which have been reclaimed in accordance with an approved plan or as otherwise approved by the Board, (y) lands on which mining operations ceased prior to July 1, 1977, or (z) lands on which previously exempt mining operations ceased prior to April 29, 1989.

"Large Mining Operations" means mining operations which have a disturbed area of more than five surface acres at any time.

"License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.

"Mining operations" means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, but not limited to, surface mining and the surface effects of underground and in situ mining; on-site transportation, concentrating, milling, evaporation, and other primary processing. "Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; off-site operations and transportation; or reconnaissance activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment such as bulldozers or backhoes.

"Notice of Intention" means a notice of intention to commence mining operations, that provides the complete information required for authorization to conduct mining operations, and ~~includes~~ any amendments or revisions thereto.

"Off-site" means the land areas that are outside of or beyond the on-site land.

"On-site" means the surface lands on or under which surface or underground mining operations are conducted. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division.

"Operator" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mining operation or proposed mining operation.

"Owner" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mineral deposit or the surface of lands employed in mining operations.

"Party" means the Board, Division or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the Board to intervene in the

proceeding, and all persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.

"Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character, or another agency.

"Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. For the purpose of these rules, the Board, or its appointed Hearing Examiner, shall be considered the Presiding Officer of all appeals of informal adjudicative proceedings which commenced before the Division as well as all adjudicative proceedings which commence before the Board. The Division Director or his/her designee shall be considered a Presiding Officer for all informal adjudicative proceedings which commence before the Division in accordance with this Rule R647-5. If fairness to the parties is not compromised, an agency may substitute one Presiding Officer for another during any proceeding.

"Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or otherwise treat the land affected in order to achieve a safe and ecologically stable condition and use which will be consistent with local environmental conditions and land management practices.

"Regrade or Grade" means to physically alter the topography of any land surface.

"Respondent" means any person against whom an adjudicative proceeding is initiated, whether by an agency or any other person.

"Revision" means a change to an approved Notice of Intention to Conduct Mining Operations, which will increase or decrease the amount of land affected, or alter the location and type of on-site surface facilities, such that the nature of the reclamation plan will differ substantially from that in the approved Notice of Intention.

"Rock Aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit, that were created by alluvial sedimentary processes. The definition of rock aggregate specifically excludes any solid rock in the form of bedrock which is exposed at the surface of the earth or overlain by unconsolidated material.

"Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 1/16mm to 2mm, which has been deposited by sedimentary processes.

"Small Mining Operations" means mining operations which have a disturbed area of five or less surface acres at any time.

"Surface Mining" means mining conducted on the surface of the land including open pit, strip, or auger mining; dredging; quarrying; leaching; surface evaporation operations; reworking abandoned dumps and tailings and activities related thereto.

"Underground Mining" means mining carried out beneath the surface by means of shafts, tunnels or other underground mine openings.

KEY: minerals reclamation

June 15, 1998

40-8-1 et seq.

Notice of Continuation July 27, 1998

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-2. Exploration.

R647-2-101. Filing Requirements and Review Procedures.

1. A complete Notice of Intention to Conduct Exploration (FORM MR-EXP) or ~~a letter~~ comparable application containing all the required information must be filed and the form and amount of reclamation surety approved by ~~with~~ the Division before exploration begins. It is recommended that the notice of intention be filed with the Division at least 30 days prior to the planned commencement of exploration.

2. Within 15 days after receipt of a Notice of Intention to Conduct Exploration (FORM MR-EXP) or comparable ~~letter~~ application, the Division will review the proposal and notify the operator in writing that the notice of intention is:

2.11. ~~That the notice of intention is~~ Ccomplete, and all required information has been submitted and approved; or

2.12. ~~That the notice of intention is incomplete, and that~~ additional information as identified by the Division will be required.~~2.13.~~ The Division will review any subsequent filings of information within 10 working days of receipt.

3. If more than five acres are disturbed a mining and reclamation plan must be included in the notice of intention and approved by the Division.

~~34. A notice of intention to conduct exploration will not require Division approval, unless more than five surface acres of disturbance is proposed. However, all of the required information must be provided to the Division. Division approval is required for all variances from Rule R647-2-107, 108, or 109, regardless of the number of surface acres of disturbance planned. The Division will review and approve or disapprove:~~

4.11 The form and amount of reclamation surety, and;

4.12 Any variances requested under R647-2-107, 108, or 109, regardless of the number of surface acres of disturbance planned.

~~4. Exploration that will disturb more than five surface acres at any given time will require Division approval and a reclamation surety before exploration begins.~~

5 Developmental drilling conducted within ~~the~~ an already approved and bonded disturbed area ~~of an approved large mining operation or within the five acre disturbed area of a small mining operation~~ does not require submittal of a Notice of Intention to Conduct Exploration (FORM MR-EXP) or comparable letter application.

6. A permittee's retention of a notice of intention shall require the paying of permit fees as authorized by the Utah Legislature. The procedures for paying the permit fees are as follows:

6.11. The Division shall notify the operators of record annually of the amount of permit fees authorized by the Utah Legislature for Exploration.

6.12. Fees are due beginning July 31, 1998 and thereafter annually, by the last Friday of July as authorized by the Utah Legislature.

6.13. A permittee may avoid payment of the fee by complying with the following requirements:

6.13.11. A permittee will notify the Division of a desire to close out a notice of intention by checking the appropriate box of the permit fees billing form.

6.13.12. The permittee will then arrange with the Division for an onsite inspection of

the site to assure that all required reclamation has been performed. If an inspection reveals that an area is not yet suitably reclaimed, then a new billing notice will be issued and the permittee will be given 30 days from the date of the onsite inspection to pay the fee.

6.14. All permit fees which remain uncollected 30 days after the due date will be turned over to the Utah Office of Debt Collection.

R647-2-102. Duration of the Notice of Intention.

1. A complete Notice of Intention to Conduct Exploration or comparable ~~letter~~ application shall be valid until November 30th of the year following the year of submittal. All exploration and reclamation activities should be completed within this time frame. An operator desiring to extend the duration of a notice of intention for an additional annual period, must notify the Division in writing, prior to expiration of the notice of intention, specifying the reasons an extension is required, and the anticipated length of time required to complete exploration and reclamation. An extension shall be approved for only one year at a time.

2. The Division will review and approve the extension and require or adjust the amount of reclamation surety.

3. Failure by the operator to pay permit fees required by R647-2-101.6(6), or to maintain and update reclamation surety as required will suspend an operator's authorization to conduct exploration operations.

R647-2-103. Notice of Intention to Conduct Exploration.

The notice of intention shall address the requirements of the following rules:

TABLE

RULE #	SUBJECT
R647-2-104	Operator(s), Surface and Mineral Owner(s)
R647-2-105	Maps and Drawings
R647-2-106	Project Description
R647-2-107	Operation Practices

R647-2-108 Hole Plugging Requirements

R647-2-109 Reclamation Practices

R647-2-110 Variance

R647-2-104. Operator(s), Surface and Mineral Owner(s).

The notice of intention shall include the following general information:

1. The name, permanent mailing address, and telephone number of the operator responsible for exploration.

2. The name and permanent mailing address of the surface land owner(s) and mineral owner(s) of all land to be affected by the operations.

3. The federal mining claim number(s), lease number(s), or permit number(s) of any mining claims, federal or state leases or permits included in the land affected.

4. A statement that the operator will conduct reclamation as required by these rules.

R647-2-105. Maps and Drawings.

Accurate topographic base maps shall be submitted with the notice of intention showing:

1. -The location of the proposed exploration project and existing operations must be submitted with the notice of intention. A USGS 7.5 minute series map is preferred. The areas to be disturbed should be plotted on the map in sufficient detail so that they can be located on the ground (1"=200' scale is preferred). It is recommended that the operator also plot and label any previously disturbed areas in the immediate vicinity of the proposed exploration project for which the operator is not responsible.

2. Locations of existing and proposed operations, including drill holes, trenches, pits, shafts, cuts or other planned exploration activities; and

3. Locations of existing and proposed access roads.

R647-2-106. Project Description.

The notice of intention should include the following information:

1. A statement giving general details of the type or method of exploration proposed,

including the proposed dates during which exploration will be conducted;

2. The type of minerals to be explored for;
3. The general dimensions of all drill holes, including total depth and diameter;
4. The general dimensions of all trenches, pits, shafts, cuts, or other types of disturbances;
5. The width and length of any new roads constructed;
6. An estimate of the total number of surface acres to be disturbed.

7. The amount of material extracted, moved, or proposed to be moved during the exploration operation.

R647-2-107. Operation Practices.

The operator shall conform to the following practices while conducting exploration unless the Division grants a variance in writing:

1. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare during operations. Methods to minimize hazards shall include but not be limited to:

1.11. The closing or guarding of shafts and tunnels to prevent unauthorized or accidental entry in accordance with MSHA regulations;

1.12. The disposal of trash, scrap metal and wood, and extraneous debris;

1.13. The plugging or capping of drill, core, or other exploratory holes as set forth in Rule R647-2-108;

1.14. The posting of appropriate warning signs in locations where public access to operations is readily available;

1.15. The construction of berms, fences and/or barriers above highwalls or other excavations when required by the Division.

2. Drainages - If natural channels are to be affected by exploration, then the operator shall take appropriate measures to avoid or minimize environmental damage.

3. Erosion Control - Operations shall be conducted in a manner such that sediment from disturbed areas is adequately controlled. The degree of erosion control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water quality or other characteristics.

4. Deleterious Materials - All deleterious or potentially deleterious material, shall be safely removed from the site or kept in an isolated condition such that adverse environmental effects are eliminated or controlled.

5. Soils - Suitable soil material shall be removed and stored in a stable condition where practical so as to be available for reclamation.

6. Concurrent Reclamation - During operations, disturbed areas shall be reclaimed when no longer needed, except to the extent necessary to preserve evidence of mineralization for proof of discovery. Areas which have been disturbed but are not routinely or currently utilized shall be kept in a safe, environmentally stable condition.

R647-2-108. Hole Plugging Requirements.

Drill holes shall be properly plugged as soon as practical and not be left unplugged for more than 30 days without approval of the Division. The procedures outlined below are required for the surface and subsurface plugging of drill holes. The Division may approve an alternate plan, if the operator can prove to the satisfaction of the Division that another method will provide adequate protection to the groundwater resources and long term stability of the land. Dry holes and nonartesian holes which do not produce significant amounts of water may be temporarily plugged with a surface cap to permit the operator to re-enter the hole for the duration of operations.

1. Surface plugging of drill holes shall be accomplished by:

1.11. Setting a nonmetallic permaplug at a minimum of five (5) feet below the surface, or returning the cuttings to the hole and tamping the returned cuttings to within five (5) feet of ground level. The hole above the permaplug or tamped cuttings will be filled with a cement plug. If cemented casing is to be left in place, a concrete surface plug is not required provided that a permanent cap is secured on top of the casing.

1.12. If the area is tilled farmland, a five (5) foot cement plug must be placed above a permaplug or tamped cuttings so that the top of the cement plug is a minimum of three (3) feet below the ground surface. The hole above the cement plug is to be filled with soil. If cemented casing is to be left in place, a concrete surface plug is not required provided that a permanent cap is secured on top of the casing. The top of the casing and cap must be a minimum of three (3) feet below the ground surface.

2. Drill holes that encounter water, oil, gas or other potential migratory substances and are 2-1/2 inches or greater in surface diameter shall be plugged in the subsurface to prevent the migration of fluid from one strata to another. If water is encountered, plugging shall be accomplished as outlined below:

2.11. If artesian flow (i.e., water flowing to the surface from the hole) is encountered during or upon cessation of drilling, a cement plug shall be placed to prevent water from flowing between geologic formations and at the surface. The cement mix should consist of API Class A or H cement with additives as needed. It should weigh at least 13.5 lbs./gal., and be placed under the supervision of a person qualified in proper drill hole cementing of artesian flow. Artesian bore holes must be plugged in the described manner, prior to removal of the drilling equipment from the well site. If the surface owner of the land affected desires to convert an artesian drill hole to a water well, the owner must notify the Division in writing accepting responsibility for the ultimate plugging of the drill hole.

2.12. Holes that encounter significant amounts of nonartesian water shall be plugged by:

2.12.111 Placing a 50 foot cement plug immediately above and below the aquifer(s);
or

2.12.112 Filling from the bottom up (through the drill stem) with a high grade bentonite/water slurry mixture. The slurry shall have a Marsh funnel viscosity of at least 50 seconds per quart prior to the adding of any cuttings.

R647-2-109. Reclamation Practices.

The operator shall conform to the following practices while conducting reclamation unless the Division grants a variance in writing:

1. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare following completion of operations. Methods to minimize hazards shall include but not be limited to:

1.11. The permanent sealing of shafts and tunnels;

1.12. Appropriate disposal of trash, scrap metal and wood, buildings, extraneous debris, and other materials incident to mining;

1.13. The plugging of drill, core, or other exploratory holes as set forth in Rule R647-

2-108;

1.14. The posting of appropriate warning signs in locations where public access to operations is readily available;

1.15. The construction of berms, fences and/or barriers above highwalls or other excavations when required by the Division.

2. Drainages - If natural channels have been affected by exploration, then reclamation must be performed such that the channels will be left in a stable condition with respect to actual and reasonably expected water flow so as to avoid or minimize future damage to the hydrologic system.

3. Erosion Control - Reclamation shall be conducted in a manner such that sediment from disturbed areas is adequately controlled. The degree of erosion control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water quality or other characteristics.

4. Deleterious Materials - All deleterious or potentially deleterious material shall be safely removed from the site or left in an isolated or neutralized condition such that adverse environmental effects are eliminated or controlled.

5. Land Use - The operator shall leave the on-site area in a condition which is capable of supporting the postmining land use.

6. Slopes - Waste piles, spoil piles and fills shall be regraded to a stable configuration and shall be sloped to minimize safety hazards and erosion while providing for successful revegetation.

7. Highwalls - In surface mining and in open cuts for pads or roadways, highwalls shall be reclaimed and stabilized by backfilling against them or by cutting the wall back to achieve a slope angle of 45 degrees or less.

8. Roads and Pads - On-site roads and pads shall be reclaimed when they are no longer needed for operations. When a road or pad is to be turned over to the property owner or managing agency for continuing use, the operator shall turn over the property with adequate surface drainage structures and in a condition suitable for continued use.

9. Dams and Impoundments - Water impounding structures shall be reclaimed so as to be self-draining and mechanically stable unless shown to have sound hydrologic design and to be beneficial to the postmining land use.

10. Trenches and Pits - Trenches and small pits shall be reclaimed.

11. Structures and Equipment - Structures, rail lines, utility connections, equipment, and debris shall be buried or removed.

12. Topsoil Redistribution - After final grading, soil materials shall be redistributed on a stable surface so as to minimize erosion, prevent undue compaction and promote revegetation.

13. Revegetation - The species seeded shall include adaptable perennial species that will grow on the site, provide basic soil and watershed protection, and support the postmining land use.

Revegetation shall be considered accomplished when:

13.11. The revegetation has achieved 70 percent of the premining vegetative ground cover. If the premining vegetative ground cover is unknown, the ground cover of an adjacent undisturbed area that is representative of the premining ground cover will be used as a standard. Also, the vegetation has survived three growing seasons following the last seeding, fertilization or irrigation, unless such practices are to continue as part of the postmining land use; or

13.12. ~~The~~ Division determines that the revegetation work has been satisfactorily completed within practical limits.

14. Where reseeding has occurred and the vegetation has survived one growing season, the reseeded area shall not be included for purposes of determining whether future exploration or mining operations involve a disturbed area of five acres or less.

R647-2-110. Variance.

1. The operator may request a variance from Rule R647-2-107, 108, or 109, by submitting the following information, which shall be considered by the Division on a site-specific basis:

1.11. The rule(s) as to which a variance is requested;

1.12. The variance requested and description of the area that would be affected by the variance;

1.13. Justification for the variance;

1.14. Alternate methods or measures to be utilized.

2. A variance shall be granted if the alternative method or measure proposed will be consistent with the Act.

3. Any variance must be specifically approved by the Division in writing.

R647-2-111. Surety.

1. After receiving notification that the notice of intention is approved or complete, but prior to commencement of operations, the operator must post a reclamation surety with the Division.

~~1. The operator of an exploration project that will result in more than five surface acres being disturbed at any given time must post a reclamation surety prior to commencement of exploration. Disturbed areas which have been reclaimed are not included within the cumulative five acres for purposes of the reclamation surety.~~

1.11 Existing exploration operations will not be extended after the effective date of R647-2-111 unless reclamation surety has been posted with the Division as required by this section.

1.12 Failure to furnish and maintain reclamation surety will suspend an operator's authorization to conduct exploration operations and may, after opportunity for notice and hearing, result in a withdrawal of the approved notice of intention as provided for in Section 40-8-16(2) and (3).

2. The Division will not require a separate surety where a reclamation surety in a form and amount acceptable to the Division is held by other governmental entities, provided that the Division will be named as co-beneficiary. Memoranda of understandings will be developed and entered into according to Section 40-8-22.~~the Division of Forestry, Fire and State Lands, The School and Institutional Trust Lands Administration, or an agency of the federal government.~~

3. As part of the review of the notice of intention, the Division shall determine the required surety amount based on:

3.11. Site-specific calculations reflecting the Division's cost to reclaim the site.

3.12. The Minerals Regulatory Program's average dollars per acre reclamation costs, if comparable to site specific cost estimates for similar operations; and

3.13. —An operator's reclamation estimate ~~will be accepted~~ if it is accurate and

verifiable.

4. The operator shall submit a completed Reclamation Contract (FORM MR-RC) with the required surety. The form and amount of ~~the reclamation~~ surety must be approved by the Division. Acceptable forms may include:

4.11. A corporate surety bond from a surety company that is licensed to do business in Utah, that is listed in "A.M. Best's Key Rating Guide" at a rating of A- or better or a Financial Performance Rating (FPR) of 8 or better, according to the "A.M. Best's Guide". All surety companies also will be continuously listed in the current issue of the U.S. Department of the Treasury Circular 570. Operators who do not have a surety bond with a company that meets the standards of subsection 4.11 will have 120 days from the date of Division notification after enactment of the changes to subsection 4.11 to achieve compliance or face enforcement action. When the Division in the course of examining surety bonds, notifies an operator that a surety company guaranteeing its performance does not meet the standards of subsection 4.11., the operator has 120 days after notice from the Division by mail to correct the deficiency, or face enforcement action;

4.12. Federally-insured certificate of deposit payable to the State of Utah, Division of Oil, Gas and Mining;

4.13. Cash;

4.14. An irrevocable letter of credit issued by a bank organized to do business in the United States;

4.15. Escrow accounts.

4.16. In addition, the Board may accept a written self-bonding agreement in the case of operators showing sufficient financial strength.

5. Surety shall be required until such time as reclamation is deemed complete by the Division. The Division shall promptly conduct an inspection when notified by the operator that reclamation is complete. The full release of surety shall be evidence that the operator has reclaimed as required by the Act.

5.11. A partial release of surety can be made by the Division if it determines that a substantial phase or segment of reclamation such as demolition, backfilling or regrading are completed and the amount retained is sufficient to insure completion.

~~6. Adjustments or revisions made in the surety amount shall be in accordance with~~

~~the terms and conditions outlined in the Reclamation Contract.~~

R647-2-112. Failure to Reclaim.

If the operator fails or refuses to conduct reclamation as outlined in the complete notice of intention, and comply with the requirements of R647-2-107, R647-2-108, or R647-2-109 the Board may, after notice and hearing, order that:

1. R-reclamation be conducted by the Division, ~~and that:~~

24. The costs and expenses of reclamation, together with costs of collection including attorney's fees, be recovered in a civil action brought by the attorney general against the operator in any appropriate court; ~~under~~

23. ~~Any~~The surety filed for this purpose be forfeited. With respect to the surety filed with the Division, the Board shall request the Attorney General to take the necessary legal action to enforce and collect the amount of liability. Where reclamation surety ~~or a bond~~ has been filed with ~~other the Division of Forestry, Fire and State Lands, The School and Institutional Trust Lands Administration or an agency of the federal government~~ al agencies, the Board shall notify such agency of the hearing findings and seek concurrence as request ~~that the necessary forfeiture action be taken.~~

3.11 The forfeited surety shall be used only for the reclamation of lands incident to the mining operation, and any residual amount returned.

R647-2-113. Confidential Information.

Information provided in the notice of intention and in the Mineral Exploration Progress Report (FORM MR-EPR) that relates to the location, size, and nature of the mineral deposit, shall be protected as confidential information by the Board and the Division. The information will not be a matter of public record until a written release is received from the operator.

R647-2-114. Revised Notice.

Minor additions or changes in the location of exploration operations do not require the submittal of a revised notice of intention. A new or revised Notice of Intention to

Conduct Exploration (FORM MR-EXP) or comparable ~~letter~~ application must be submitted when:

1. The proposed additions or changes will occur outside the originally designated quarter section; or
2. The proposed additions will substantially increase the environmental impact or size of the ~~cause the total unreclaimed surface disturbance to exceed five (5) acres~~ disturbed area as described in the current notice of intention.

R647-2-115. Reports.

On or before December 31st of the year of filing of a Notice of Intention to Conduct Exploration (FORM MR-EXP) or comparable application ~~letter~~, the operator must submit a Mineral Exploration Progress Report (FORM MR-EPR), which describes any unusual drilling conditions, water encountered, hole plugging measures, and reclamation activities conducted.

R647-2-116. Practices and Procedures; Appeals.

The Administrative Procedures, as outlined in R647-5, shall be applicable to minerals regulatory proceedings.

KEY: minerals reclamation

October 1, 2001

40-8-1 et seq.

Notice of Continuation July 27, 1998

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-3. Small Mining Operations.

R647-3-101. Filing Requirements and Review Procedures.

1. A Notice of Intention to Commence Small Mining Operations (FORM MR-SMO)

or a letter application containing all the required information must be filed ~~with~~ and the form and amount of reclamation surety approved by the Division before a small mining operation begins. It is recommended that the notice of intention be filed with the Division at least thirty (30) days prior to the planned commencement of operations.

2. Within 15 days after receipt of a Notice of Intention (FORM MR-SMO), the Division will review the proposal and notify the operator in writing;

2.11. ~~I~~ That the notice of intention is complete and all required information has been submitted and is complete; ~~or,~~

2.12. I ~~that~~ the notice of intention is incomplete, and ~~that~~ additional information as identified by the Division will be required.

~~3.~~ 2.13. The Division will review any subsequent filings of information within 10 working days of receipt.

~~43. A notice of intention to commence small mining operations will not require Division approval. However, all of the required information must be provided to the Division. The Division will review and approve or disapprove:~~

3.11. The form and amount of reclamation surety (R647-3-111), and

3.12. All variances requested from Rules R647-3-107, 108, and 109, regardless of the number of surface acres of disturbance planned.

~~Division approval is required for all variances from Rules R647-3-107, 108, and 109, regardless of the number of surface acres of disturbance planned.~~

~~5. Filing of the complete notice of intention shall enable the operator to conduct small mining operations provided that the operator has paid all permit fees required by R647-3-101(7). A failure to pay permit fees required by R647-3-101(7) will suspend an operator's authorization to conduct small mining operations. The operator is responsible for conducting mining and reclamation activities in compliance with the requirements of the notice of intention, the Act, and these Rules.~~

64. The operator must notify the Division no later than 30 days after beginning small mining operations.

75. A permittee's retention of an approved notice of intention shall require the paying of permit fees as authorized by the Utah Legislature. The procedures for paying the permit fees are as follows:

76.11. The Division shall notify the operators of record annually of the amount of permit fees authorized by the Utah Legislature for

76.11.11. Small Mining Operations (less than 5 disturbed acres)

76.12. Fees are due beginning July 31, 1998 and thereafter annually, by the last Friday of July as authorized by the Utah Legislature.

76.13. A permittee may avoid payment of the fee by complying with the following requirements:

76.13.11. A permittee will notify the Division of a desire to close out a notice of intention by checking the appropriate box of the permit fees billing form.

76.13.12. The permittee will then arrange with the Division for an onsite inspection of the site to assure that all required reclamation has been performed. If an inspection reveals that an area is not yet suitably reclaimed, then a new billing notice will be issued and the permittee will be given 30 days from the date of the onsite inspection to pay the fee.

76.14. All permit fees which remain uncollected 30 days after the due date will be turned over to the Utah Office of Debt Collection.

R647-3-102. Duration of the Notice of Intention.

The notice of intention, including any subsequent amendments or revisions, shall remain in effect for the life of the small mining operation. However, failure by the operator to pay permit fees required by R647-3-101.~~6(7)~~ or maintain and update adequate reclamation surety as required in R647-3-111 will suspend an operator's authorization to conduct small mining operations.

R647-3-103. Notice of Intention to Commence Small Mining Operations.

The notice of intention shall address the requirements of the following rules:

TABLE

RULE #	SUBJECT
R647-3-104	Operator(s), Surface and Mineral Owner(s)
R647-3-105	Map

- R647-3-106 Operation Plan
- R647-3-107 Operation Practices
- R647-3-109 Reclamation Practices
- R647-3-110 Variance

R647-3-104. Operator(s), Surface and Mineral Owner(s).

The notice of intention shall include the following general information:

1. The name, permanent mailing address, and telephone number of the operator responsible for the small mining operation and reclamation of the site.
2. The name, and permanent mailing address of the surface landowner(s) and mineral owner(s) of all land to be affected by the mining operation.
3. The federal mining claim number(s), lease number(s) or permit number(s) of all mining claims, federal or state leases or permits included in the land affected.
4. A statement that the operator will conduct reclamation as required by these rules.

R647-3-105. Project Location and Map.

1. AAccurate topographic base map shall be submitted with the notice of intention showing:

1.11 The location of the proposed and existing small mining operation ~~must be submitted with the notice of intention. A(a~~ USGS 7.5 minute series map ~~is~~ preferred). The areas to be disturbed should be plotted on the map in sufficient detail so that they can be located on the ground (1"=200' scale preferred). It is recommended that the operator also plot and label any previously disturbed areas in the immediate vicinity of the proposed small mining operation for which the operator is not responsible.

1.12 locations of existing and proposed drill holes, pits, cuts, and shafts;

1.13 locations of all surface facilities; and

1.13 proposed and existing access roads

2. Copies of proposed and existing underground and surface mine maps.

R647-3-106. Operation Plan.

The operator shall provide a brief narrative description of the proposed mining operation as part of the notice of intention. The description should include the following information:

1. A statement giving general details of the type or method of mining operations proposed and the type of minerals to be mined;
2. Estimated width and length of any new roads to be constructed;
3. An estimate of the total number of surface acres to be disturbed by the mining operation.
4. The amount of material to be extracted, moved, or proposed to be moved, relating to the mining operation.

R647-3-107. Operation Practices.

During operations, the operator shall conform to the following practices unless the Division grants a variance in writing:

1. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare during operations. Methods to minimize hazards shall include but not be limited to:

- 1.11. The closing or guarding of shafts and tunnels to prevent unauthorized or accidental entry in accordance with MSHA regulations;

- 1.12. The disposal of trash, scrap metal and wood, and extraneous debris;

- 1.13. The plugging or capping of drill, core, or other exploratory holes as set forth in Rule R647-3-108.;

- 1.14. The posting of appropriate warning signs in locations where public access to operations is readily available;

- 1.15. The construction of berms, fences and/or barriers above highwalls or other excavations when required by the Division.

2. Drainages - If natural channels are to be affected by the mining operation, then the operator shall take appropriate measures to avoid or minimize environmental damage.

3. Erosion Control - Operations shall be conducted in a manner such that sediment from disturbed areas is adequately controlled. The degree of erosion control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water

quality or other characteristics.

4. Deleterious Materials - All deleterious or potentially deleterious material shall be safely removed from the site or left in an isolated or neutralized condition such that adverse environmental effects are eliminated or controlled.

5. Soils - Suitable soil material shall be removed and stored in a stable condition where practical so as to be available for reclamation.

6. Concurrent Reclamation - During operations, disturbed areas shall be reclaimed when no longer needed, except to the extent necessary to preserve evidence of mineralization for proof of discovery. Areas which have been disturbed but are not routinely or currently utilized shall be kept in a safe, environmentally stable condition.

R647-3-108. Hole Plugging Requirements.

Drill holes shall be properly plugged as soon as practical and shall not be left unplugged for more than 30 days without approval of the Division. The procedures outlined below are required for the surface and subsurface plugging of drill holes. The Division may approve an alternate plan, if the operator can prove to the satisfaction of the Division that another method will provide adequate protection to the groundwater resources and long term stability of the land. Dry holes and nonartesian holes which do not produce significant amounts of water may be temporarily plugged with a surface cap to permit the operator to re-enter the hole for the duration of the operations.

1. Surface plugging of drill holes shall be accomplished by:

1.11. Setting a nonmetallic permaplug at a minimum of five (5) feet below the surface, or returning the cuttings to the hole and tamping the returned cuttings to within five (5) feet of ground level. The hole above the permaplug or tamped cuttings will be filled with a cement plug. If cemented casing is to be left in place, a concrete surface plug is not required provided that a permanent cap is secured on top of the casing.

1.12. If the area is tilled farmland, a five (5) foot cement plug must be placed above a permaplug or tamped cuttings so that the top of the cement plug is a minimum of three (3) feet below the ground surface. The hole above the cement plug is to be filled with soil. If cemented casing is to be left in place, a concrete surface plug is not required provided that a permanent cap is secured on top of the casing. The top of the casing and cap must

be a minimum of three (3) feet below the ground surface.

2. Drill holes that encounter water, oil, gas or other potential migratory substances and are 2-1/2 inches or greater in surface diameter shall be plugged in the subsurface to prevent the migration of fluid from one strata to another. If water is encountered, plugging shall be accomplished as outlined below:

2.11. If artesian flow (i.e., water flowing to the surface from the hole) is encountered during or upon cessation of drilling, a cement plug shall be placed to prevent water from flowing between geologic formations and at the surface. The cement mix should consist of API Class A or H cement with additives as needed. It should weigh at least 13.5 lbs./gal., and be placed under the supervision of a person qualified in proper drill hole cementing of artesian flow. Artesian bore holes must be plugged in the described manner, prior to removal of the drilling equipment from the well site. If the surface owner of the land affected desires to convert an artesian drill hole to a water well, he must notify the Division in writing that he accepts responsibility for the ultimate plugging of the drill hole.

2.12. Holes that encounter significant amounts of nonartesian water shall be plugged by:

2.12.111. Placing a 50 foot cement plug immediately above and below the aquifer(s); or

2.12.112. Filling from the bottom up (through the drill stem) with a high grade bentonite/water slurry mixture. The slurry shall have a Marsh funnel viscosity of at least 50 seconds per quart prior to the adding of any cuttings.

R647-3-109. Reclamation Practices.

During reclamation, the operator shall conform to the following practices unless the Division grants a variance in writing:

1. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare following completion of operations. Methods to minimize hazards shall include but not be limited to:

1.11. The permanent sealing of shafts and tunnels;

1.12. The disposal of trash, scrap metal and wood, buildings, extraneous debris, and other materials incident to mining;

1.13. The plugging of drill, core, or other exploratory holes as set forth in Rule R647-3-108;

1.14. The posting of appropriate warning signs in locations where public access to operations is readily available;

1.15. The construction of berms, fences and/or barriers above highwalls or other excavations when required by the Division.

2. Drainages - If natural channels have been affected by mining operations, then reclamation must be performed such that the channels will be left in a stable condition with respect to actual and reasonably expected water flow so as to avoid or minimize future damage to the hydrologic system.

3. Erosion Control - Reclamation shall be conducted in a manner such that sediment from disturbed areas is adequately controlled. The degree of erosion control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water quality or other characteristics.

4. Deleterious Materials - All deleterious or potentially deleterious material shall be safely removed from the site or left in an isolated or neutralized condition such that adverse environmental effects are eliminated or controlled.

5. Land Use - The operator shall leave the on-site area in a condition which is capable of supporting the postmining land use.

6. Slopes - Waste piles, spoil piles and fills shall be regraded to a stable configuration and shall be sloped to minimize safety hazards and erosion while providing for successful revegetation.

7. Highwalls - In surface mining and in open cuts for pads or roadways, highwalls shall be reclaimed and stabilized by backfilling against them or by cutting the wall back to achieve a slope angle of 45 degrees or less.

8. Roads and Pads - On-site roads and pads shall be reclaimed when they are no longer needed for operations. When a road or pad is to be turned over to the property owner or managing agency for continuing use, the operator shall turn over the property with adequate surface drainage structures and in a condition suitable for continued use.

9. Dams and Impoundments - Water impounding structures shall be reclaimed so as to be self-draining and mechanically stable unless shown to have sound hydrologic

design and to be beneficial to the postmining land use.

10. Trenches and Pits - Trenches and small pits shall be reclaimed.

11. Structures and Equipment - Structures, rail lines, utility connections, equipment, and debris shall be buried or removed.

12. Topsoil Redistribution - After final grading, soil materials shall be redistributed on a stable surface, so as to minimize erosion, prevent undue compaction and promote revegetation.

13. Revegetation - The species seeded shall include adaptable perennial species that will grow on the site, provide basic soil and watershed protection, and support the postmining land use.

Revegetation shall be considered accomplished when:

13.11. The revegetation has achieved 70 percent of the premining vegetative ground cover. If the premining vegetative ground cover of the disturbed area is unknown, then the ground cover of an adjacent undisturbed area that is representative of the premining conditions will be used as a standard. Also, the vegetation has survived three growing seasons following the last seeding, fertilization or irrigation, unless such practices are to continue as part of the postmining land use; or

13.12. The Division determines that the revegetation work has been satisfactorily completed within practical limits.

14. :-wVWhere reseeding has occurred and the vegetation has survived one growing season, the reseeded area shall not be included for purposes of determining whether a mining operation is a small mining operation.

R647-3-110. Variance.

1. The operator may request a variance from Rule R647-3-107, 108, or 109 by submitting the following information which shall be considered by the Division on a site-specific basis:

1.11. The rule(s) as to where a variance is requested;

1.12. The variance requested and a description of the area that would be affected by the variance;

1.13. Justification for the variance;

- 1.14. Alternate methods or measures to be utilized.
2. A variance shall be granted if the alternative method or measure proposed will be consistent with the Act.
3. Any variance must be specifically approved by the Division in writing.

R647-3-111. Surety.

1. After receiving notification that the notice of intention is complete, but prior to commencement of operations, the operator must post a reclamation surety with the Division.

1.11 Existing operations will have 365 days from the effective date of R647-3-111 in which to achieve compliance.

1.12 Failure to furnish and maintain reclamation surety will suspend an operator's authorization to conduct mining operations and may after opportunity for notice and hearing, result in a withdrawal of the approved notice of intention as provided for in Section 40-8-16(2).

2. The Division will not require a separate surety where a reclamation surety in a form and amount acceptable to the Division is held by other governmental entities, provided that the Division will be named as co-beneficiary. Memoranda of Understandings will be developed and entered into according to Section 40-8-22.

3. As part of the review of the notice of intention, the Division shall determine the required surety amount based on:

3.11. Site-specific calculations reflecting the Division's or third party cost to reclaim the site;

3.12. The Minerals Regulatory Program's average dollars per acre reclamation costs, if comparable to site specific cost estimates for similar operations; and

3.13. An operator's reclamation estimate if it is accurate and verifiable.

4. The operator shall submit a completed Reclamation Contract (FORM MR-RC) with the required surety. The Division must approve the form and amount of surety. Acceptable forms of surety are described in R647-4-113.4.11 through R647-4-113.4.16.

5. Surety shall be required until such time as the Division deems reclamation complete. The Division will promptly conduct an inspection when notified by the operator that reclamation is complete. The full release of surety shall be evidence that the operator has reclaimed as required by the Act.

5.11. A partial release of surety can be made by the Division if it determines that a substantial phase or segment of reclamation such as demolition, backfilling or regrading are completed and the amount retained is sufficient to insure completion.

6. The reclamation surety shall be adjusted to insure that the amount of surety is sufficient to cover all costs of reclamation at any time. Adjustments must be made:

6.11. As required by a revision in the Notice of Intention under Section 40-8-18,

6.12. Because of increased costs of reclamation as a result of inflation, and

6.13 As a result of periodic review by the Division.

R647-3-11~~4~~2. Failure to Reclaim.

If the operator of a small mining operation fails or refuses to conduct reclamation as required by the complete notice of intention, and comply with the requirements of and fails or refuses to comply with R647-3-107, R647-3-108, or R647-3-109~~the Act and these rules,~~ the Board may, after notice and hearing, order that:

1. Reclamation be conducted by the Division; ~~and~~
2. The costs and expenses of reclamation, together with costs of collection including attorney's fees, be recovered in a civil action brought by the attorney general against the operator in any appropriate court-; and

3. Any surety filed for this purpose be forfeited. With respect to the surety filed with the Division, the Board shall request the Attorney General to take the necessary legal action to enforce and collect the amount of liability. Where reclamation surety has been filed with another governmental agency, the Board shall notify such agency of the hearing findings, and seek concurrence as necessary.

3.11 The forfeited surety shall be used only for the reclamation of lands incident to the mining operation, and any residual amount returned.

R647-3-11~~3~~2. Suspension or Termination of Operations.

1. All mine operations are required to be maintained in a safe, clean, and environmentally stable condition. Active and inactive operations must continue to submit annual reports unless waived in writing by the Division.

2. The operator need not notify the Division of the temporary suspension of small

mining operations.

3. In the case of a termination or a suspension of mining operations that has exceeded, or is expected to exceed two (2) years, the operator shall, upon request, furnish the Division with such data as it may require to evaluate the status of the small mining operation, the status of compliance with these rules, and the probable future status of the land affected. Upon review of such data, the Division will take such action as may be appropriate. The Division may grant an extended suspension period if warranted.

4. The operator shall give the Division prompt written notice of a termination or suspension of small mining operations expected to exceed five (5) years. Upon receipt of notification the Division shall, within 30 days, make an inspection of the property.

5. Small mining operations that have been approved for an extended suspension period will be reevaluated on a regular basis. Additional interim reclamation or stabilization measures may be required in order for a small mining operation to remain in a continued state of suspension. Reclamation of a small mining operation may be required after five (5) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of the 10-year period and shows good cause for a longer suspension period.

R647-3-11~~43~~. Mine Enlargement.

Before enlarging a small mining operation beyond five (5) acres of surface disturbance, the operator must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and receive Division approval.

R647-3-~~115~~. Revisions.

Small mining operators are required to submit a revision to the complete notice of intention when a significant change(s) in the small mining operation occurs. A revision can be made by submitting a revised FORM MR-SMO (or similar form) and indicating the portion(s) of the operation which is being revised. The Division shall determine if the revision application is complete and review as a notice of intention. Approval of a revision of small mining operations is not required- revised reclamation surety must be approved

before the operational change occurs.

R647-3-11~~56~~. Transfer of a Notice of Intention.

If an operator wishes to transfer a small mining operation to another party, an application form entitled, Transfer of Notice of Intention - Small Mining Operations (FORM MR-TRS) must be completed and filed with the Division. The new mine operator must post adequate reclamation surety and assume full responsibility for continued mining operations and reclamation obligations for the small mining operation. The form and amount of surety must be approved by the Division for the transfer to be complete.

R647-3-~~116~~117. Reports.

1. On or before January 31 of each year, unless waived in writing by the Division, each operator conducting small mining operations must file an operations and progress report (FORM MR-AR) describing its operations during the preceding calendar year, including:

1.11. The location of the operation and the number and date of the applicable Notice of Intention;

1.12. The gross amounts of ore and waste materials moved during the year, as well as the disposition of such materials;

1.13. New surface disturbances created during the year;

1.14. The reclamation work performed during the year.

2. The operator shall keep and maintain timely records relating to his performance under the Act and still make these records available to the Division upon request.

R647-3-11~~78~~. Practices and Procedures; Appeals.

The Administrative Procedures, as outlined in the R647-5 Rules, shall be applicable to minerals regulatory proceedings.

R647-3-11~~89~~. Confidential Information.

Information provided in the notice of intention relating to the location, size, and

nature of the mineral deposit, and marked confidential by the operator, shall be protected as confidential information by the Board and the Division. The information will not be a matter of public record until a written release is received from the operator, or until the notice of intention is terminated.

KEY: minerals reclamation

February 26, 1999

40-8-1 et seq.

Notice of Continuation July 27, 1998

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.{PRIVATE }

R647-4. Large Mining Operations.

R647-4-101. Filing Requirements and Review Procedures.

A Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) or a ~~letter~~ application containing all the required information must be approved by the Division before mining operations begin.

1. Within 30 days after receipt of a Notice of Intention, or within 30 days after receipt of any subsequent submittal, the Division will complete its review and notify the operator in writing:

1.11. That the notice of intention is complete; or

1.12. That the notice of intention is incomplete, and that additional information as identified by the Division will be required.

2. Within 30 days after receipt of the notice of intention or within 30 days following the last action of the operator or Division on the notice of intention, the Division shall reach a tentative decision with respect to the approval or denial of the notice of intention.

Notice of the tentative decision will then be published in accordance with Rule R647-4-116.

3. Division approval of the notice of intention and execution of the Reclamation Contract (FORM MR-RC) by the operator shall bind the Division and the operator in

accordance with the Act and implementing regulations; and, shall enable the operator to conduct mining and reclamation activities in accordance therewith.

4. The operator must notify the Division within 30 days of beginning mining operations.

5. A permittee's retention of an approved notice of intention shall require the paying of permit fees as authorized by the Utah Legislature. The procedures for paying the permit fees are as follows:

5.11. The Division shall notify the operators of record annually of the amount of permit fees authorized by the Utah Legislature for the following notices of intention.

5.11.11. Large Mining Operations (less than 50 acres) (fees calculated on the disturbed acreage permitted/bonded).

5.11.12. Large Mining Operations (greater than 50 acres) (fees calculated on the disturbed acreage permitted/bonded).

5.12. Fees are due beginning July 31, 1998 and thereafter annually, by the last Friday of July as authorized by the Utah Legislature.

5.13. A permittee may avoid payment of the fee by complying with the following requirements:

5.13.11. A permittee will notify the Division of a desire to close out a notice of intention by checking the appropriate box of the permit fees billing form.

5.13.12. The permittee will then arrange with the Division for an onsite inspection of the site to assure that all required reclamation has been performed. If an inspection reveals that an area is not yet suitably reclaimed, then a new billing notice will be issued and the permittee will be given 30 days from the date of the onsite inspection to pay the fee.

5.14. All permit fees which remain uncollected 30 days after the due date will be turned over to the Utah Office of Debt Collection.

R647-4-102. Duration of the Notice of Intention.

The approved notice of intention, including any subsequently approved amendments or revisions, shall remain in effect for the life of the mine. However, the Division may review the permit and require updated information and modifications when warranted. Additionally, failure by the operator to pay permit fees required by R647-4-101(5), or maintain and update reclamation surety as required will suspend an operator's authorization to conduct mining

operations and may after notice and hearing result in a withdrawal of the approved notice of intention.

R647-4-103. Notice of Intention to Commence Large Mining Operations.

The notice of intention shall address the requirements of the following rules:

TABLE

RULE #	SUBJECT
R647-4-104	Operator(s), Surface and Mineral Owner(s)
R647-4-105	Maps, Drawings and Photographs
R647-4-106	Operation Plan
R647-4-108	Hole Plugging Requirements
R647-4-109	Impact Assessment
R647-4-110	Reclamation Plan
R647-4-112	Variance

R647-4-104. Operator(s), Surface and Mineral Owner(s).

1. The name, permanent mailing address, and telephone number of the operator responsible for the mining operations and reclamation of the site.
2. The name, permanent mailing address, and telephone number of the surface landowner(s) and mineral owner(s) of all land to be affected by the operations.
3. The federal mining claim number(s), lease number(s), or permit number(s) of any mining claims, or federal or state leases or permits included in the lands affected.

R647-4-105. Maps, Drawings and Photographs.

1. An accurate topographic base map must be submitted with the notice of intention. The scale should be approximately 1 inch = 2,000 feet, preferably a USGS 7.5 minute series or equivalent topographic map where available. The following information shall be included on the map:

- 1.11. Property boundaries of surface ownership of all lands which are to be affected by

the mining operations;

1.12. Perennial streams, springs and other bodies of water, roads, buildings, landing strips, electrical transmission lines, water wells, oil and gas pipelines, existing wells, boreholes, or other existing surface or subsurface facilities within 500 feet of the proposed mining operations;

1.13. Proposed route of access to the mining operations from nearest publicly maintained highway. The map scale will be appropriate to show access.

1.14. Known areas which have been previously impacted by mining or exploration activities within the proposed disturbed area.

2. A surface facilities map shall be provided at a scale of approximately 1" = ~~2500'~~ 2500'. The following information shall be included on the surface facilities map:

2.11. Proposed surface facilities, including but not limited to buildings, stationary mining/processing equipment, roads, utilities, power lines, proposed drainage control structures, and, the location of topsoil storage areas, tailings or processed waste facilities, disposal areas for overburden, solid and liquid wastes and wastewater discharge treatment and containment facilities;

2.12. A border clearly outlining the acreage proposed to be disturbed by mining operations.

3. The following maps, drawings or cross sections may be required by the Division:

3.11. Regraded Slopes to be left at steeper than 2h:1v;

3.12. Plans, profiles and cross sections of roads, pads or other earthen structures to be left as part of the postmining land use;

3.13. Water impounding structures with embankments greater than 20 feet in height from the upstream toe of the embankment or greater than 20 acre feet in storage capacity;

3.14. Maps identifying surface areas which will be disturbed by the operator but will not be reclaimed, such as solid rock slopes, cuts, roads, or sites of buildings or surface facilities to be left as part of the postmining land use;

3.15. Sediment ponds, diversion channels, culvert size and locations, and other hydrologic designs and features to be incorporated into the mining and reclamation plan;

3.16. Baseline information maps and drawings including soils, vegetation, watershed(s), geologic formations and structure, contour and other such maps which may be

required for determination of existing conditions, operations, reclamation and postmining land use;

3.17. A reclamation activities and treatment map to identify the location and the extent of the reclamation work to be accomplished by the operator upon cessation of mining operations. This drawing shall be utilized to determine adequate bonding and reclamation practices for the site;

3.18. Other maps, plans, or cross sections as may reasonably be required by the Division.

4. The operator may submit photographs (prints) of the site sufficient to show existing vegetation and surface conditions. These photographs should show the general appearance and condition of the land to be affected and should be clearly marked as to the location, orientation and the date that the pictures were taken.

5. Copies of underground and surface mine maps.

R647-4-106. Operation Plan.

The operator shall provide a narrative description referencing maps or drawings as necessary, of the proposed operations including:

1. Type of mineral(s) to be mined;
2. Type of operations to be conducted, including the mining/processing methods to be used on-site, and the identification of any deleterious or acid forming materials present or to be left on the site as a result of mining or mineral processing;
3. Estimated acreages proposed to be disturbed and/or reclaimed annually or sequentially;
4. A description of the nature of the materials to be mined or processed including waste/overburden materials and the estimated annual tonnages of ore and waste materials to be mined;
5. A description of existing soil types, including the location and extent of topsoil or suitable plant growth material. If no suitable soil material exists, an explanation of the conditions shall be given;
6. A description of the plan for protecting and redepositing existing soils;
7. A description of existing vegetative communities and cover levels, sufficient to

establish revegetation success standards in accordance with Rule R647-4-111;

8. Depth to groundwater, extent of overburden material and geologic setting;
9. Proposed location and size of ore and waste stockpiles, tailings facilities and water storage/treatment ponds.

10. Information regarding the amount of material extracted, moved or proposed to be moved.

R647-4-107. Operation Practices.

During operations, the operator shall conform to the following practices unless the Division grants a variance in writing:

1. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare during operations. Methods to minimize hazards shall include but not be limited to:

- 1.11. The closing or guarding of shafts and tunnels to prevent unauthorized or accidental entry in accordance with MSHA regulations;

- 1.12. The disposal of trash, scrap metal and wood, and extraneous debris;

- 1.13. The plugging or capping of drill, core, or other exploratory holes as set forth in Rule R647-4-108;

- 1.14. The posting of appropriate warning signs in locations where public access to operations is readily available;

- 1.15. The construction of berms, fences and/or barriers above highwalls or other excavations when required by the Division.

2. Drainages - If natural channels are to be affected by the mining operation, then the operator shall take appropriate measures to avoid or minimize environmental damage.

3. Erosion Control - Operations shall be conducted in a manner such that sediment from disturbed areas is adequately controlled. The degree of erosion control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water quality or other characteristics.

4. Deleterious Materials - All deleterious or potentially deleterious material shall be safely removed from the site or kept in an isolated condition such that adverse environmental effects are eliminated or controlled.

5. Soils - Suitable soil material shall be removed and stored in a stable condition where practical so as to be available for reclamation.

6. Concurrent Reclamation - During operations, disturbed areas shall be reclaimed when no longer needed, except to the extent necessary to preserve evidence of mineralization for proof of discovery. Areas which have been disturbed but are not routinely or currently utilized shall be kept in a safe, environmentally stable condition.

R647-4-108. Hole Plugging Requirements.

Drill holes shall be properly plugged as soon as practical and shall not be left unplugged for more than 30 days without approval of the Division. The procedures outlined below are required for the surface and subsurface plugging of drill holes. The Division may approve an alternate plan, if the operator can prove to the satisfaction of the Division that another method will provide adequate protection to the groundwater resources and long term stability of the land. Dry holes and nonartesian holes which do not produce significant amounts of water may be temporarily plugged with a surface cap to permit the operator to re-enter the hole for the duration of operations.

1. Surface plugging of drill holes shall be accomplished by:

1.11. Setting a nonmetallic permaplug at a minimum of five (5) feet below the surface, or returning the cuttings to the hole and tamping the returned cuttings to within five (5) feet of ground level. The hole above the permaplug or tamped cuttings will be filled with a cement plug. If cemented casing is to be left in place, a concrete surface plug is not required provided that a permanent cap is secured on top of the casing.

1.12. If the area is tilled farmland, a five (5) foot cement plug must be placed above a permaplug or tamped cuttings so that the top of the cement plug is a minimum of three (3) feet below the ground surface. The hole above the cement plug is to be filled with soil. If cemented casing is to be left in place, a concrete surface plug is not required provided that a permanent cap is secured on top of the casing. The top of the casing and cap must be a minimum of three (3) feet below the ground surface.

2. Drill holes that encounter water, oil, gas or other potential migratory substances and are 2-1/2 inches or greater in surface diameter shall be plugged in the subsurface to prevent the migration of fluid from one strata to another. If water is encountered, plugging shall be

accomplished as outlined below:

2.11. If artesian flow (i.e., water flowing to the surface from the hole) is encountered during or upon cessation of drilling, a cement plug shall be placed to prevent water from flowing between geologic formations and at the surface. The cement mix should consist of API Class A or H cement with additives as needed. It should weigh at least 13.5 lbs./gal., and be placed under the supervision of a person qualified in proper drill hole cementing of artesian flow. Artesian bore holes must be plugged in the described manner, prior to removal of the drilling equipment from the well site. If the surface owner of the land affected desires to convert an artesian drill hole to a water well, he must notify the Division in writing that he accepts responsibility for the ultimate plugging of the drill hole.

2.12. Holes that encounter significant amounts of nonartesian water shall be plugged by:

2.12.111 Placing a 50 foot cement plug immediately above and below the aquifer(s); or

2.12.112 Filling from the bottom up (through the drill stem) with a high grade bentonite/water slurry mixture. The slurry shall have a Marsh funnel viscosity of at least 50 seconds per quart prior to the adding of any cuttings.

R647-4-109. Impact Assessment.

The operator shall provide a general narrative description identifying potential surface and/or subsurface impacts. This description will include, at a minimum:

1. Projected impacts to surface and groundwater systems;
2. Potential impacts to state and federal threatened and endangered species or their critical habitats;
3. Projected impacts of the mining operation on existing soil resources;
4. Projected impacts of mining operations on slope stability, erosion control, air quality, and public health and safety;
5. Actions which are proposed to mitigate any of the above referenced impacts.

R647-4-110. Reclamation Plan.

Each notice of intention shall include a reclamation plan, including maps or drawings as necessary, consisting of a narrative description of the proposed reclamation including, but not

limited to:

1. A statement of the current land use and the proposed postmining land use for the disturbed area;
2. A description of the manner and the extent to which roads, highwalls, slopes, impoundments, drainages, pits and ponds, piles, shafts and adits, drill holes, and similar structures will be reclaimed;
3. A detailed description of any surface facilities to be left as part of the postmining land use, including but not limited to buildings, utilities, roads, pads, ponds, pits and surface equipment;
4. A description of the treatment, location and disposition of any deleterious or acid-forming materials generated and left on-site, including a map showing the location of such materials upon the completion of reclamation;
5. A planting program as best calculated to revegetate the disturbed area.
- 5.11. Plans shall include, at a minimum, grading and/or stabilization procedures, topsoil replacement, seed bed preparation, seed mixture(s) and rate(s), and timing of seeding (fall seeding is preferred timing);
- 5.12. Where there is no original protective cover, an alternate practical procedure must be proposed to minimize or control erosion or siltation.

6. A statement that the operator will conduct reclamation as required by these rules.

R647-4-111. Reclamation Practices.

During reclamation, the operator shall conform to the following practices unless the Division grants a variance in writing:

1. Public Safety and Welfare - The operator shall minimize hazards to the public safety and welfare following completion of operations. Methods to minimize hazards shall include but not be limited to:
 - 1.11. The permanent sealing of shafts and tunnels;
 - 1.12. The disposal of trash, scrap metal and wood, buildings, extraneous debris, and other materials incident to mining;
 - 1.13. The plugging of drill, core, or other exploratory holes as set forth in Rule R647-4-108;

1.14. The posting of appropriate warning signs in locations where public access to operations is readily available;

1.15. The construction of berms, fences and/or barriers above highwalls or other excavations when required by the Division.

2. Drainages - If natural channels have been affected by mining operations, then reclamation must be performed such that the channels will be left in a stable condition with respect to actual and reasonably expected water flow so as to avoid or minimize future damage to the hydrologic system.

3. Erosion Control - Reclamation shall be conducted in a manner such that sediment from disturbed areas is adequately controlled. The degree of erosion control shall be appropriate for the site-specific and regional conditions of topography, soil, drainage, water quality or other characteristics.

4. Deleterious Materials - All deleterious or potentially deleterious material shall be safely removed from the site or left in an isolated or neutralized condition such that adverse environmental effects are eliminated or controlled.

5. Land Use - The operator shall leave the on-site area in a condition which is capable of supporting the postmining land use.

6. Slopes - Waste piles, spoil piles and fills shall be regraded to a stable configuration and shall be sloped to minimize safety hazards and erosion while providing for successful revegetation.

7. Highwalls - In surface mining and in open cuts for pads or roadways, highwalls shall be reclaimed and stabilized by backfilling against them or by cutting the wall back to achieve a slope angle of 45 degrees or less.

8. Roads and Pads - On-site roads and pads shall be reclaimed when they are no longer needed for operations. When a road or pad is to be turned over to the property owner or managing agency for continuing use, the operator shall turn over the property with adequate surface drainage structures and in a condition suitable for continued use.

9. Dams and Impoundments - Water impounding structures shall be reclaimed so as to be self-draining and mechanically stable unless shown to have sound hydrologic design and to be beneficial to the postmining land use.

10. Trenches and Pits - Trenches and small pits shall be reclaimed.

11. Structures and Equipment - Structures, rail lines, utility connections, equipment, and debris shall be buried or removed.

12. Topsoil Redistribution - After final grading, soil materials shall be redistributed on a stable surface, so as to minimize erosion, prevent undue compaction and promote revegetation.

13. Revegetation - The species seeded shall include adaptable perennial species that will grow on the site, provide basic soil and watershed protection, and support the postmining land use.

Revegetation shall be considered accomplished when:

13.11. The revegetation has achieved 70 percent of the premining vegetative ground cover. If the premining vegetative ground cover is unknown, the ground cover of an adjacent undisturbed area that is representative of the premining ground cover will be used as a standard. Also, the vegetation has survived three growing seasons following the last seeding, fertilization or irrigation, unless such practices are to continue as part of the postmining land use; or

13.12. The Division determines that the revegetation work has been satisfactorily completed within practical limits.

R647-4-112. Variance.

1. The operator may request a variance from Rule R647-4-107, 108, or 111, by submitting the following information which will be considered by the Division on a site-specific basis:

1.11. The rule(s) as to which a variance is requested;

1.12. The variance requested and a description of the area that would be affected by the variance;

1.13. Justification for the variance;

1.14. Alternate methods or measures to be utilized.

2. A variance shall be granted if the alternative method or measure proposed will be consistent with the Act.

3. Any variance must be specifically approved by the Division in writing.

R647-4-113. Surety.

1. After receiving notification that the notice of intention has been approved, but prior to commencement of operations, the operator shall provide the reclamation surety to the Division. Failure to furnish and maintain reclamation surety will suspend an operator's authorization to conduct mining operations and may after opportunity for notice and hearing result in a withdrawal of the approved notice of intention as provided for in Section 40-8-16(2) and (3).

2. The Division will not require a separate surety when a reclamation surety in a form and amount acceptable to the Division is held by other governmental entities, provided that the Division will be named as co-beneficiary. Memoranda of understandings will be developed and entered into according to Section 40-8-22, the Division of Forestry, Fire and State Lands, The School and Institutional Trust Lands Administration, or an agency of the federal government.

3. As part of the review of the notice of intention, the Division shall determine the final amount of surety required to reclaim the mine site. The surety amount will be based upon (a) the technical details of the approved mining and reclamation plan, (b) the proposed post mining land use, and (c) projected third party engineering and administrative costs to cover Division expenses incurred under a bond forfeiture circumstance. An operator's surety estimate will be accepted if it is accurate and verifiable. The Division may accept surety estimates based upon the Minerals Reclamation Program's average dollars per acre reclamation costs, if comparable to site specific cost estimates for similar operations.

4. The operator shall submit a completed Reclamation Contract (FORM MR-RC) with the required surety. The form and amount of the surety must be approved by the Division, except as provided in subpart 4.16. Acceptable forms may include:

4.11. A corporate surety bond from a surety company that is licensed to do business in Utah, that is listed in "A.M. Best's Key Rating Guide" at a rating of A- or better or a Financial Performance Rating (FPR) of 8 or better, according to the "A.M. Best's Guide". All surety companies also will be continuously listed in the current issue of the U.S. Department of the Treasury Circular 570. Operators who do not have a surety bond with a company that meets the standards of subsection 4.11 will have 120 days from the date of Division notification after enactment of the changes to subsection 4.11 to achieve compliance or face enforcement

action. When the Division in the course of examining surety bonds, notifies an operator that a surety company guaranteeing its performance does not meet the standards of subsection 4.11., the operator has 120 days after notice from the Division by mail to correct the deficiency, or face enforcement action;

4.12. Federally-insured certificate of deposit payable to the State of Utah, Division of Oil, Gas and Mining;

4.13. Cash;

4.14. An irrevocable letter of credit issued by a bank organized to do business in the United States;

4.15. Escrow accounts.

4.16. The Board may accept a written self-bonding agreement in the case of operators showing sufficient financial strength.

5. Surety shall be required until such time as reclamation is deemed complete by the Division. The Division shall promptly conduct an inspection when notified by the operator that reclamation is complete. The full release of surety shall be evidence that the operator has reclaimed as required by the ACT.

5.11. A partial release of surety can be made by the Division if it determines that a substantial phase or segment of reclamation such as demolition, backfilling or regrading are completed and the amount retained is sufficient to insure completion.

of surety shall be evidence that the operator has reclaimed as required by the Act.

6. The reclamation surety shall be adjusted to insure that the amount of surety is sufficient to cover all costs of reclamation at any time. Adjustments must be made:

6.11. As required by a revision in the Notice of Intention under R647-4-118 and R647-4-119,

6.12. Because of increased costs of reclamation as a result of inflation, and

6.13 As a result of a periodic review by the Division.

~~6. Adjustments or revisions made in the surety amount shall be in accordance with the terms and conditions outlined in the Reclamation Contract.~~

R647-4-114. Failure to Reclaim.

If the operator fails or refuses to conduct reclamation as outlined in the approved notice

of intention, the Board may, after notice and hearing, order that reclamation be conducted by the Division and that:

1. The costs and expenses of reclamation, together with costs of collection including attorney's fees, be recovered in a civil action brought by the attorney general against the operator in any appropriate court; or

2. Any surety filed for this purpose be forfeited. With respect to the surety filed with the Division, the Board shall request the Attorney General to take the necessary legal action to enforce and collect the amount of liability. Where surety or a bond has been filed with other governmental agencies~~the Division of Forestry, Fire and State Lands, The School and Institutional Trust Lands Administration or an agency of the federal government~~, the Board shall notify such agency of the hearing findings, and seek concurrence as request that the necessary ~~forfeiture action be taken~~.

R647-4-115. Confidential Information.

Information provided in the notice of intention relating to the location, size, and nature of the mineral deposit, and marked confidential by the operator, shall be protected as confidential information by the Board and the Division. The information will not be a matter of public record until a written release is received from the operator, or until the notice of intention is terminated.

R647-4-116. Public Notice and Appeals.

1. Public notice will be deemed complete when the following actions have been taken:

- (1.) A description of the disturbed area and the tentative decision to approve or disapprove the notice of intention shall be published by the Division in abbreviated form, one time only, in all newspapers of general circulation published in the county or counties where the land affected is situated, and in a daily newspaper of general circulation in Salt Lake City, Utah.

- (2.) A copy of the abbreviated information and tentative decision shall also be mailed by the Division to the zoning authority of the county or counties in which the land affected is situated and to the owner or owners of record of the land affected, as described in the notice of intention.

2. Any person or agency aggrieved by the tentative decision may file a written protest with the Division, during the public comment period identified in the notice, setting forth factual reasons for the complaint.

3. If no responsive written protests are received by the Division within 30 days after the last date of publication, the tentative decision of the Division on the notice of intention shall be final and the operator will be so notified.

4. If written objections of substance are received by the Division during the public comment period, a hearing shall be held before the Division in accordance with UCA 40-8-13, following which hearing the Division shall issue its decision.

R647-4-117. Notification of Suspension or Termination of Operations.

1. The operator need not notify the Division of the temporary suspension of mining operations.

2. In the case of a termination or a suspension of mining operations that has exceeded, or is expected to exceed two (2) years, the operator shall, upon request, furnish the Division with such data as it may require to evaluate the status of the mining operation, the status of compliance with these rules, and the probable future status of the land affected. Upon review of such data, the Division will take such action as may be appropriate. The Division may grant an extended suspension period if warranted by a showing of good cause by the operator.

3. The operator shall give the Division prompt written notice of a termination or suspension of large mining operations expected to exceed five (5) years. Upon receipt of notification, the Division shall, within 30 days, make an inspection of the property.

4. Large mining operations that have been approved for an extended suspension period will be reevaluated on a regular basis. Additional interim reclamation or stabilization measures may be required in order for a large mining operation to remain in a continued state of suspension. Reclamation of a large mining operation may be required after five (5) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of the 10-year period and shows good cause for a longer suspension period.

R647-4-118. Revisions.

1. In order to revise a notice of intention, an operator shall file a Notice of Intention to Revise Large Mining Operations (FORM MR-REV). This notice of intention will include all information concerning the revision that would have been required in the original notice of intention.

2. A Notice of Intention to Revise Large Mining Operations (FORM MR-REV) will be processed and considered for approval by the Division in the same manner as an original notice of intention. The operator will be authorized and bound by the requirements of the existing approved notice until the revision is acted upon and any revised surety requirements are satisfied. Those portions of the approved notice of intention not subject to the revision will not be subject to review under this provision.

3. Large mining operations which have a disturbed area of five (5) acres or less may refile as a small mining operation. Reclaimed areas must meet full bond release requirements before they can be excluded from the disturbed acreage.

R647-4-119. Amendments.

1. An amendment is an insignificant change to the approved notice of intention. The Division will review the change and make the determination of significance on a case-by-case basis.

2. A request for an amendment should be filed on the Notice of Intention to Revise Large Mining Operations (FORM MR-REV). An amendment of a large mining operation requires Division approval but does not require public notice.

R647-4-120. Transfer of Notice of Intention.

If an operator wishes to transfer a mining operation to another party, an application for Transfer of Notice of Intention - Large Mining Operations (FORM MR-TRL), must be completed and filed with the Division. The new mine operator will be required to post a new reclamation surety and must assume full responsibility for continued mining operations and reclamation.

R647-4-121. Reports.

1. On or before January 31 of each year, unless waived in writing by the Division, each operator conducting large mining operations must file an Annual Report of Mining Operations (FORM MR-AR) describing its operations during the preceding calendar year. Form MR-AR, includes:

1.11. The location of the operation and file number of the approved notice of intention;

1.12. The gross amounts of ore and waste materials moved during the year, as well as the disposition of such materials;

1.13. The reclamation work performed during the year and new surface disturbances created during the year.

2. The operator shall include an updated map depicting surface disturbance and reclamation performed during the year, prepared in accordance with Rule R647-4-105.

3. The operator shall keep and maintain timely records relating to his performance under the Act, and shall make these records available to the Division upon request.

R647-4-122. Practices and Procedures; Appeals.

The Administrative Procedures, as outlined in the R647-5 Rules, shall be applicable to minerals regulatory proceedings.

KEY: minerals reclamation

October 1, 2001

40-8-1 et seq.

Notice of Continuation July 27, 1998

KEY: minerals reclamation

February 26, 1999

40-8-1 et seq.

Notice of Continuation July 27, 1998

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-5. Administrative Procedures.

R647-5-101. Formal and Informal Proceeding.

1. Adjudicative proceedings which shall commence formally before the Board in accordance with the "Rules of Practice and Procedure Before the Board of Oil, Gas and Mining", the R641 rules, include the following: R647-2-112, Failure to Reclaim, Forfeiture of Surety; R647-3-11~~4~~², Failure to Reclaim, Forfeiture of Surety; R647-3-11~~23~~⁵, Over 10-Year Suspension; R647-4-114, Failure to Reclaim, Forfeiture of Surety; R647-4-117.4, Over 10-Year Suspension.

2. Adjudicative proceedings which shall commence informally before the Division in accordance with this Rule R647-5 include the following: R647-2-101, Notice of Intent to Commence Mining Operations; R647-2-102, Extension; R647-2-107, Operation Practices; R647-2-108, Unplugged Over 30 Days/Alternative Plan; R647-2-109, Reclamation Practices Variance; R647-2-109.13, Revegetation Approval; R647-2-110, Variance, Revocation or Adjustment of Variance; R647-2-111, Release of Surety; R647-2-114, New or Revised Notice of Intention; R647-3-101, Notice of Intention to Commence Small Mining Operations; R647-3-107, Operation Practices; R647-3-108, Unplugged over 30 Days/Alternate Plan; R647-3-109, Reclamation Practices Variance; R647-3-109.13, Revegetation Approval; R647-3-110, Variance, Revocation, or Adjustment of Variance; R647-3-111, Release of Surety; R647-3-11~~23~~¹, Waiver, Annual Report; R647-3-11~~23~~³ and R647-3-11~~23~~⁴, Termination or Suspension; R647-3-11~~23~~⁵, Reevaluations, Reclamation; R647-3-11~~34~~⁴, Mine Enlargement; R647-3-~~114~~¹¹⁵, Revisions; R647-3-~~116~~¹¹⁷, Report Waiver; R647-4-101, Notice of Intention to Commence Large Mining Operation; R647-4-102, Updated Information or Modifications; R647-4-107, Operation Practices; R647-4-108, Unplugged over 30 Days/Alternate Plan; R647-4-111, Reclamation Practice, Variance; R647-4-111.13, Revegetation Approval; R647-4-112, Variances, Revocation or Adjustment; R647-4-113, Release of Surety; R647-4-117.3 and R647-4-117.4, Termination or Suspension; R647-4-118, Revisions; R647-4-119, Amendments; R647-4-121, Annual Report, Waiver.

3. Adjudicative proceedings which shall commence before the Board but follow the procedures for the informal process in this Rule R647-5 include the following:

R647-2-111, Surety, Form and Amount; R647-3-111, Surety, Form and Amount; and R647-4-113, Surety, Form and Amount.

(Sections R647-5-102 through R647-5-111 remain unchanged)

draft